

DEPARTMENT OF STATE REVENUE

04-20200208R.ODR

**Final Order Denying Refund: 04-20200208R
Gross Retail Tax
For the Years 2019**

NOTICE: IC § 4-22-7-7 permits the publication of this document in the Indiana Register. The publication of this document provides the general public with information about the Indiana Department of Revenue's official position concerning a specific set of facts and issues. The "Holding" section of this document is provided for the convenience of the reader and is not part of the analysis contained in this Final Order Denying Refund.

HOLDING

Out-of-State Transportation Company was not entitled to Indiana sales tax refund because it could not show that Indiana sales taxes were paid.

ISSUE

I. Gross Retail Tax - Public Transportation Exemption - Documentation.

Authority: IC § 6-2.5-2-1; IC § 6-8.1-5-4; *Dept. of State Revenue v. Caterpillar, Inc.*, 15 N.E.3d 579 (Ind. 2014).

Taxpayer argues that it is entitled to a refund of sales tax paid to the state of Indiana on transactions involving trucks used in public transportation.

STATEMENT OF FACTS

Taxpayer is a transportation service provider that operates throughout the United States, including in Indiana. Taxpayer purchases delivery trucks and has paid sales tax in the states in which it purchased the vehicles.

Taxpayer filed a claim for refund of Indiana sales tax paid during the year 2019. Taxpayer claimed that it was entitled to a refund of the sales tax paid on the equipment in Indiana because the transactions qualified for the public transportation sales tax exemption. The Indiana Department of Revenue ("Department") reviewed and denied Taxpayer's refund claim in full, stating that the supporting documents submitted by Taxpayer did not substantiate the basis for its claim for refund. Taxpayer submitted a protest challenging the denial and an administrative hearing was conducted during which Taxpayer explained the basis for its protest. This Final Order Denying Refund results. Additional facts will be addressed below as necessary.

I. Gross Retail Tax - Public Transportation Exemption - Documentation.

DISCUSSION

Taxpayer claims that it is entitled to the public transportation sales tax exemption on lease transactions that occurred in Indiana.

The Department notes that, "[W]hen [courts] examine a statute that an agency is 'charged with enforcing. . .[courts] defer to the agency's reasonable interpretation of [the] statute even over an equally reasonable interpretation by another party.'" *Dept. of State Revenue v. Caterpillar, Inc.*, 15 N.E.3d 579, 583 (Ind. 2014). Thus, all interpretations of Indiana tax law contained within this decision, as well as the preceding audit, shall be entitled to deference.

Sales tax is imposed by IC § 6-2.5-2-1, in relevant part states:

- (a) An excise tax, known as the state gross retail tax, is imposed on retail transactions made in Indiana.
- (b) The person who acquires property in a retail transaction is liable for the tax on the transaction and, except as otherwise provided in this chapter, shall pay the tax to the retail merchant as a separate added amount to the consideration in the transaction. The retail merchant shall collect the tax as agent for the state.

Taxpayer's refund claim was not denied due to a question as to Taxpayer's status as a public transportation provider; thus this decision does not address those issues specifically. Rather, Taxpayer's refund claim was denied due to insufficient documentation of sales tax paid to the state of Indiana. IC § 6-8.1-5-4(a) provides:

Every person subject to a listed tax must keep books and records so that the department can determine the amount, if any, of the person's liability for that tax by reviewing those books and records. The records referred to in this subsection include all source documents necessary to determine the tax, including invoices, register tapes, receipts, and canceled checks.

In reviewing Taxpayer's original refund claim, the Department reviewed a sample of invoices provided by Taxpayer. The sampled invoices included transactions that did not occur in Indiana, and therefore did not show that Taxpayer paid sales tax claimed to Indiana. Taxpayer provided several invoices, which provided proof of sales tax paid to other states. Taxpayer also provided Indiana vehicle registration and BMV checks, but Taxpayer could not tie those documents to Indiana sales tax paid on vehicles. Based on the lack of documentation showing Indiana sales tax paid, Taxpayer's protest is denied.

FINDING

Taxpayer's protest is denied.

November 10, 2020

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